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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sutter)

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THE PEOPLE,

Plaintiff and Respondent,

v.

VERONICA TORRES GARCIA,

Defendant and Appellant.

C076184

(Super. Ct. No. CRF131203)

Defendant Veronica Torres Garcia pled no contest to petty theft with a prior theft-related conviction. She admitted allegations of a prior serious felony conviction and a prior prison term. In exchange, a count of receiving stolen property, a prison term allegation, and a case alleging failure to appear on this matter were dismissed.

Defendant was sentenced to prison for a stipulated midterm of two years, doubled for the prior strike, plus one year for the prior prison term. She was awarded 93 days'

custody credits and 92 days' conduct credits and was ordered to pay a \$280 restitution fine, a \$280 restitution fine suspended unless parole is revoked, a \$40 court operations fee, and a \$30 court facilities assessment.

## FACTS

Gustavo Figueroa installed a global positioning system (GPS) on his riding lawnmower after it previously had been stolen. On March 27, 2013, the GPS advised Figueroa that the lawnmower again had been moved.

Sutter County Deputy Sheriff Khushwant Randhawa determined that the mower had come to rest in a shed next to a residence. When he checked the shed, which had no door, he saw a Red Snapper lawnmower matching the description Figueroa had given him. He contacted defendant at the residence and she told him that the lawnmower "was just there." Subsequently, she told him that the lawnmower "was in there [that day] and she used it to cut the grass."

Defendant told Deputy Randhawa that the lawnmower might belong to the homeowner. Officers consulted the homeowner who told them the lawnmower did not belong to him. When Deputy Randhawa confronted defendant with the homeowner's statement, defendant claimed she had found the lawnmower in some bushes at an intersection. Then, after defendant's coresidents told Deputy Randhawa that defendant had told them "to not worry about" where the lawnmower had come from, Deputy Randhawa confronted defendant again and this time she said, "Then, okay, I'll tell you the truth." Defendant admitted that she and a male friend had taken the lawnmower and brought it home.

At that point, defendant was placed under arrest and advised of her constitutional rights. After indicating that she wanted to talk, defendant told Deputy Randhawa, " 'I knew we needed a lawnmower so I went home and told' " a coresident who summoned a

male friend who helped them load the lawnmower. Defendant acknowledged that taking property belonging to another is “[s]tealing” and that she intended to keep the lawnmower.

### DISCUSSION

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant.

In a letter to the trial court, defendant’s appellate counsel raised an error in the calculation of presentence credits. Defendant was arrested on the date of the offense, March 27, 2013. She was released on her own recognizance on April 12, 2013. She is entitled to 17 days’ custody credits for this period.

Defendant returned to custody on September 17, 2013, and remained in custody until sentencing on December 13, 2013. She is entitled to 88 days’ custody credits for this period.

Thus, defendant is entitled to 105 days’ custody credits and 104 days’ conduct credits. (*People v. Chilelli* (2014) 225 Cal.App.4th 581, 588.) We modify the judgment accordingly.

Having undertaken an examination of the entire record, we find no other arguable error that would result in a disposition more favorable to defendant.

### DISPOSITION

The judgment is modified to award defendant 105 days’ custody credits and 104 days’ conduct credits. As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Corrections and Rehabilitation.

ROBIE, Acting P. J.

We concur:

MAURO, J.

HOCH, J.